C.W.P.No.13562 of 2006

Date of decision: 13-2-2007

Smt. Leela Wati Vs. Additional Civil Judge and others

CORAM:- HON'BLE MR. JUSTICE K.S.GAREWAL
HON'BLE MR. JUSTICE AJAI LAMBA

Present: Shri M.S.Khaira, Senior Advocate, assisted by
Shri Abhinashi Singh, Advocate,
for the petitioner

Shri R.K.Jain, Advocate,
for the respondent.

K.S.GAREWAL,J.

Leela Wati with 776 votes was defeated by Naresh Kumari who secured 785 votes, in the election for the sarpanchship of Sewli, Tehsil Hodal, District Faridabad. There was a third candidates Om Parkash who secured 88 votes. The result was declared on April 3, 2005. Leela Wati filed an election petition on May 2, 2005 for recounting of votes, in terms of Section 174(4)(b) of Haryana Panchayati Raj Act, 1994 as amended. The election petition was dismissed by the learned Civil Judge (Junior Division) Palwal on July 19, 2006. Feeling aggrieved Leela Wati has filed the instant petition.

The sole ground for challenging the order of the learned Civil Judge is that the Court was bound to recount the votes and declare the candidate who secured the most number of valid votes elected.

It is now settled law that the scope of the Section 176(4)(b) is limited to scrutiny and computation of votes but even this is done only if the election petitioner is able to satisfy the court that there was sufficient

material on record that would justify scrutiny and computation of votes. This procedure cannot be followed simply on the asking of the effected party, there must be reasons or grounds to justify scrutiny and computation of votes.

The question of law is well settled by this Court in the Full Bench decision in Radha Kishan Vs. Election Tribunal reported as 2001 AIR (Pb) 1 = 1999(4) R.C.R. (Civil) 79 = 1999(3) P.L.R. 1.

Electoral politics is such that candidates do not accept defeat easily but there must be finality to the election. A defeated candidate can in many ways show that scrutiny of the votes is necessary and after scrutiny there should be fresh computation of votes.

According to the petitioner there were several votes wrongly counted and several votes wrongly declared invalid. This seems to be the only reason to demand scrutiny and computation. It is true that Leela Wati lost by 9 votes from Naresh Kumari but there is no ground for scrutiny and computation. Frankly speaking recount of votes is not the same as scrutiny and computation, ' recounting' is a misnomer. It is only if there is some material for scrutiny of votes that scrutiny first takes place and then, if it is necessary, computation of votes has to be done. This is the clear and specific requirement of Section 176(4)(b) of the Act. Nothing more and nothing less is required by this provision. Recounting is beyond the scope of the said section.

Since the petitioner has failed to present any evidence or material to show why there should be a scrutiny of votes, the learned Civil Judge (Junior Division) quite correctly found in favour of the successful candidate and relied heavily on Radha Kishan's case. We find no reason to

disagree with the conclusion reached by the learned Civil Judge (Junior Division) Palwal on July 19, 2006.

We find no merit in this petition. The same is hereby dismissed.

(K.S.GAREWAL)
JUDGE

(AJAI LAMBA)
JUDGE

February 13, 2007
RSK